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**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY
OFFICE OF FOSSIL ENERGY AND CARBON MANAGEMENT**

IN THE MATTER OF:

**Corpus Christi Liquefaction, LLC
CCL Midscale 8-9, LLC
Cheniere Marketing, LLC**

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FECM Docket No. 23-46-LNG

ANSWER IN OPPOSITION TO PROTESTS

Pursuant to Section 590.304(f) of the United States Department of Energy's ("DOE") regulations,¹ Corpus Christi Liquefaction, LLC ("CCL"), CCL Midscale 8-9, LLC and Cheniere Marketing, LLC (collectively, "Applicants") hereby submit the instant answer in opposition ("Answer") to the protests submitted as part of the Motion to Intervene and Protest of Public Citizen, Inc. ("Public Citizen") filed on July 7, 2023 ("Public Citizen Protest") and the Motion to Intervene and Protest of Sierra Club, also filed on July 7, 2023 ("Sierra Club Protest" and together with the Public Citizen Protest, "Protests"), each submitted to the DOE's Office of Fossil Energy and Carbon Management ("DOE/FECM")² in the above-captioned proceeding.

In support of the instant Answer, the Applicants state the following:

**I.
BACKGROUND**

On April 6, 2023, pursuant to Section 3 of the Natural Gas Act ("NGA"),³ the Applicants filed a request with DOE/FECM seeking long-term, multi-contract authorization to export domestically produced liquefied natural gas ("LNG") in a volume equivalent to approximately 170 billion cubic feet ("Bcf") of natural gas per year from the proposed Corpus Christi Liquefaction

¹ 10 C.F.R. § 590.304(f) (2023).

² DOE/FECM was previously referred to as DOE's Office of Fossil Energy or DOE/FE, and in this regard, the prior acronym "DOE/FE" is used herein when referencing historical documents.

³ 15 U.S.C. § 717b (2018).

Midscale Trains 8 & 9 Project (“Trains 8 & 9 Project” or “Project”), to be located at and adjacent to the existing Corpus Christi LNG terminal (“CCL Terminal”) in San Patricio and Nueces Counties, Texas (the “DOE Application”).⁴ The Applicants seek to export such LNG to any country which has, or in the future develops, the capacity to import LNG via ocean going carrier and with which the United States either (i) has a free trade agreement (“FTA”) requiring national treatment for trade in natural gas or (ii) lacks an FTA requiring national treatment for trade in natural gas but with which trade is not prohibited by U.S. law or policy, each for a term extending through December 31, 2050.

Relatedly, on March 30, 2023, CCL and CCL Midscale 8-9, LLC filed a corresponding application with the Federal Energy Regulatory Commission (“FERC” or “Commission”) for authorization to site, construct and operate the Project (“FERC Application”) in Docket No. CP23-129-000.⁵ The Applicants anticipate that DOE/FECM will participate and comment as a cooperating agency in the environmental review to be conducted under the National Environmental Policy Act (“NEPA”)⁶ as part of the Commission’s review of the Project, with FERC serving as the lead agency under NEPA.

DOE/FECM published a notice of the DOE Application in the Federal Register on May 8, 2023, requiring that protests, motions to intervene, or notices of intervention, as applicable, and written comments be filed by July 7, 2023.⁷ On July 7, 2023, the Protests were submitted to

⁴ *Corpus Christi Liquefaction, LLC, CCL Midscale 8-9, LLC & Cheniere Marketing, LLC*, Application for Long-Term Authorization to Export Liquefied Natural Gas to Free Trade Agreement Nations and Non-Free Trade Agreement Nations, Docket No. 23-46-LNG (Apr. 6, 2023).

⁵ *Corpus Christi Liquefaction, LLC & CCL Midscale 8-9, LLC*, Application for Authorization Under Section 3 of the Natural Gas Act, Docket No. CP23-129-000 (Mar. 30, 2023).

⁶ 42 U.S.C. §§ 4321 *et seq.*

⁷ *Corpus Christi Liquefaction, LLC; CCL Midscale 8–9, LLC; and Cheniere Marketing, LLC*; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, 88 Fed. Reg. 29662 (May 8, 2023).

DOE/FECM, each objecting to the DOE Application and averring that the request to export LNG should be denied as contrary to the public interest.

II.

ANSWER IN OPPOSITION

As detailed below, the arguments set forth in the Protests are, among other things, inaccurate, misleading, and raise issues outside the scope of the DOE Application and therefore, should be disregarded. Moreover, much of the opposition is generalized in nature and challenges long-established DOE/FECM policies and precedent, and such challenges have previously been rejected by DOE/FECM and the courts. Sierra Club and Public Citizen allege no information in the Protests to suggest that granting the export authorization requested by Applicants is not consistent with the public interest, or to support conditioning the export authorization in the manner suggested by Sierra Club. For these reasons, as explained below, DOE/FECM should afford the Protests no weight.⁸

A. LNG Exports Do Not Threaten Domestic Natural Gas Supply or Cause Significant Price Increases

The Protests raise unfounded concerns regarding potential natural gas supply and price impacts associated with increased exports of U.S.-sourced LNG. Contrary to the unsupported assertions of Sierra Club and Public Citizen, current projections for U.S. gas supply are more than sufficient to meet both domestic needs, as well the exports proposed by the Applicants and others

⁸ Among other things, the Protests are replete with incorrect statements and conclusions totally lacking in foundation. For example, Public Citizen states that the private equity firm Blackstone “has control of and affiliation with Cheniere Energy despite owning less than 10% of the company, per recent FERC precedent” as a result of its ownership interest and the fact that a Blackstone employee holds a seat on the Cheniere Board of Directors. *Public Citizen Protest*, at 2. However, these facts alone do not demonstrate control. Moreover, the FERC precedent that Public Citizen relies on pertains to public utilities and public utility holding companies. This is a DOE proceeding, not a FERC proceeding, and the Applicants are neither public utilities, nor public utility holding companies.

approved by DOE/FECM. In fact, the U.S. Energy Information Administration’s (“EIA”) recent 2023 Annual Energy Outlook (“AEO 2023”) forecasts that domestic consumption of natural gas is anticipated to remain “relatively stable—ending recent growth in most cases.”⁹ This, coupled with continued growth in natural gas production will ensure that continued and additional exports do not threaten domestic gas supply needs. In this regard, AEO 2023 found that current supply projections would simultaneously support LNG exports and anticipated domestic demand.¹⁰

With regard to price impacts, as noted in the DOE Application, DOE’s 2018 LNG Export Study confirmed that “[i]ncreasing U.S. LNG exports under any given set of assumptions about U.S. natural gas resources and their production leads to only small increases in U.S. natural gas prices.”¹¹ In its most recent non-FTA export approval, DOE/FECM relied on the 2018 LNG Export Study, and reaffirmed that based on the 2022 Annual Energy Outlook projections, the study was fundamentally sound.¹² The most recent AEO 2023 data continues to support the conclusions in the 2018 LNG Export Study with regard to limited price increases. For the year 2050, the AEO 2023 Reference Case shows moderately higher natural gas production from the lower-48 and significantly lower total consumption, which is more favorable than in the AEO 2017 Reference

⁹ U.S. Energy Info. Admin., *Annual Energy Outlook 2023*, at p. 6 (Mar. 16, 2023), available at <https://www.eia.gov/outlooks/aeo/>.

¹⁰ *AEO 2023*, at p. 6 (finding that “continued growth in U.S. production, [] combined with relatively little growth in domestic consumption, allows the United States to remain a net exporter of ... natural gas through 2050 in all AEO2023 cases.”).

¹¹ NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports*, at p. 56-57 (Jun. 7, 2018), available at <https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf> [hereinafter *2018 LNG Export Study*]. Public Citizen claims that the 2018 LNG Export Study has been discredited, while providing no evidence to support its claim. Public Citizen oddly cites to its own letter and its program director’s tweet about crude oil in attempt to support its arguments.

¹² *Freeport LNG Expansion, L.P., et al.*, DOE/FECM Order No. 4961, Order Granting Long-Term Authorization To Export Liquefied Natural Gas To Non-Free Trade Agreement Nations, Docket No. 21-98-LNG (Mar. 3, 2023) [hereinafter *Order No. 4961*].

Case, which formed the basis for the 2018 LNG Export Study.¹³ While AEO 2023 projects increased LNG exports for the year 2050, the total amount of LNG exports is still significantly less than the difference between production and total consumption, demonstrating there will be ample excess natural gas supply to support LNG exports.¹⁴ In any event, the total LNG exports in the AEO 2023 Reference Case are well-within the 52.8 Bcf/d that the 2018 LNG Export Study found would produce net economic benefits for the United States and would not be inconsistent with the public interest.¹⁵

Further, the findings in the 2018 LNG Export Study with respect to minimal price increases are consistent with, and supported by, the EIA’s recently released *Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market*, which the Protests blatantly mischaracterize.¹⁶ The *Issues in Focus* “found that [while] LNG export volumes affected the resulting annual average U.S. natural gas price ... ***[t]he resulting variation in natural gas prices in the[] three cases, however, was narrower than recent in history and [the] AEO2023, despite a wide variety of U.S. LNG export volumes.***”¹⁷ Moreover, EIA stated that it found “***negligible differences in average electricity prices*** between the cases, ranging from a low of 11.0 cents per

¹³ See AEO 2023, at tbls. 59 (Lower 48 Natural Gas Production and supply Prices by Supply Region) & 61 (Natural Gas Consumption by End-Use Sector and Census Division) (last accessed Jul. 13, 2023) (Reference Case Projections Tables), available at https://www.eia.gov/outlooks/aeo/tables_ref.php; compare Order No. 4961, at 63-64, tbl. 1.

¹⁴ See *id.*; see also AEO 2023, at tbl. 60 (Natural Gas Imports and Exports) (last accessed Jul. 13, 2023) (Reference Case Projection Tables), available at https://www.eia.gov/outlooks/aeo/tables_ref.php.

¹⁵ See U.S. Dep’t of Energy, Study on Macroeconomic Outcomes of LNG Exports; Response to Comments Received on Study, 83 Fed. Reg. 67,251, at 67,273 (Dec. 28, 2018).

¹⁶ U.S. Energy Info. Admin., AEO2023 *Issues in Focus: Effects of Liquefied Natural Gas Exports on the U.S. Natural Gas Market* (May 3, 2023), available at https://www.eia.gov/outlooks/aeo/IIF_LNG/pdf/LNG_Issue_in_Focus.pdf [hereinafter *Issues in Focus*].

¹⁷ *Id.* at p. 3 (emphasis added).

kilowatthour (¢/kWh) in the Low LNG Price case to a high of 11.2 ¢/kWh in the Fast Builds Plus High LNG Price case.”¹⁸

Further, although EIA projected that “through 2050 additional U.S. LNG exports would increase the natural gas spot price at the Henry Hub,” it expressly found that such exports would ***not increase prices “beyond recent history or the highest AEO2023 case.”***¹⁹ Additionally, the Protests misrepresent the current state of the market with regard to natural gas prices. The day before the Protests were filed, EIA issued its Natural Gas Weekly Update for the week ending July 5, 2023, which stated that:

[f]rom January to June 2023, the average monthly spot natural gas price at the U.S. benchmark Henry Hub fell 34%, or \$1.12 per million British thermal units (MMBtu), to an average of \$2.18/MMBtu in June.... The average price during this time was the lowest average monthly Henry Hub price since June 2020, when prices averaged \$1.93/MMBtu (when adjusted for inflation). Prices for the first half of the year are down 62%, or \$3.96/MMBtu, compared with the first half of 2022 (when adjusted for inflation).²⁰

The Sierra Club Protest further alleges that DOE has not addressed concerns regarding distributional impacts, however, as DOE/FECM has repeatedly held in response to Sierra Club raising this same issue in other proceedings, this is clearly not the case, and the assertion remains contrary to clear court precedent.²¹ The U.S. Court of Appeals for the District of Columbia Circuit

¹⁸ *Id.* at pp. 12-13 (emphasis added).

¹⁹ *Issues in Focus*, at p. 8 (emphasis added); *see also id.* at p. 9, fig. 2; *see also id.*, at p. 3 (showing that the forecasted Henry Hub spot price (\$/MMBtu) for both High LNG Price scenarios is well below the actual High price during in the 2018-22 range).

²⁰ U.S. Energy Info. Admin., *Natural Gas Weekly Update for week ending July 5, 2023* (released July 6, 2023), available at [https://www.eia.gov/naturalgas/weekly/#:~:text=Natural%20gas%20plant%20liquids%20\(NGPL,the%20week%20ending%20July%205](https://www.eia.gov/naturalgas/weekly/#:~:text=Natural%20gas%20plant%20liquids%20(NGPL,the%20week%20ending%20July%205).

²¹ *See, e.g., Order No. 4961*, at 61 (explaining that the D.C. Circuit had held that DOE had “adequately addressed” concerns regarding distributional impacts); *see also Magnolia LNG LLC*, DOE/FECM Order No. 3909-C, Order Amending Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, Docket No. 13-132-LNG, at 49 (Apr. 27, 2022) [hereinafter *Order No. 3909-C*] (“[T]he D.C. Circuit rejected

(“D.C. Circuit”) rejected Sierra Club’s argument that DOE “erred by failing to consider distributional impacts” when evaluating the public interest, upholding DOE’s finding that “given that exports will benefit the economy as a whole and absent stronger record evidence on the distributional consequences, [DOE] could not say that ... exports were inconsistent with the public interest on these grounds.”²² In this regard, the D.C. Circuit found that DOE had “adequately addressed” concerns regarding distributional impacts.²³ Sierra Club has provided no substantial record evidence to contradict DOE or the court’s findings.

That said, as detailed in the FERC Application, construction and operation of the Project is not expected to have high and adverse human health or environmental effects on any nearby populations, including environmental justice communities. The Applicants are committed to continue engaging with environmental justice communities throughout the life of the Project so that they are provided with timely access to information and have opportunities to provide feedback, identify potential issues, and collaborate on ways to mitigate potential impacts. The Project will strive for continuous improvement in its outreach as it seeks out, and facilitates, the involvement of disadvantaged and overburdened communities to address environmental justice and equity considerations.

Sierra Club’s argument that DOE ‘erred by failing to consider distributional impacts’ when evaluating the public interest under NGA section 3(a).”).

²² *Sierra Club v. DOE*, 703 Fed. App’x 1, at *3 (D.C. Cir. 2017).

²³ *Id.*

B. The Sierra Club's NEPA Arguments Are Meritless and Should Be Rejected

1. DOE/FECM's Incorporation of its Environmental Studies Satisfies its Obligations Under NEPA

As it has unsuccessfully done in other proceedings, Sierra Club argues that DOE/FECM must consider the environmental impacts occurring during the entire LNG lifecycle.²⁴ In this regard, Sierra Club argues that DOE/FECM is required to review impacts from the upstream production associated with the natural gas exported by the Trains 8 & 9 Project, and the end use of such gas, despite both being unknown by the Applicants. However, the D.C. Circuit has previously rejected the Sierra Club's arguments that DOE must consider the indirect effects of export-induced natural gas production.²⁵ In *Freeport*, the D.C. Circuit found that "DOE offered a reasoned explanation as to why it believed the indirect effects pertaining to increased gas production were not reasonably foreseeable."²⁶ In doing so, the D.C. Circuit affirmed DOE's reasoning that particularized impacts are highly location-dependent and could not be attributed to a particular export application.²⁷ The D.C. Circuit further held that "[u]nder our limited and deferential review, we cannot say that the [DOE] failed to fulfill its obligation under NEPA by declining to make specific projections about environmental impacts stemming from specific levels of export induced gas production."²⁸ The D.C. Circuit similarly rejected Sierra Club's challenge to DOE's treatment of potential downstream GHG emissions.²⁹

²⁴ *Sierra Club Protest*, at 15-16.

²⁵ *Sierra Club v. U.S. Dep't of Energy*, 867 F.3d 189 (DC Cir. 2017) (denying petition for review of the LNG export authorization issued to Freeport LNG Expansion, L.P., et al.) [hereinafter, "*Freeport*"].

²⁶ *Id.* at 198.

²⁷ *Id.* at 198-99.

²⁸ *Id.* at 201.

²⁹ *Id.* at 202.

DOE/FECM routinely incorporates into its orders its Environmental Studies addressing various aspects of the LNG production and export chain.³⁰ The Sierra Club Protest makes generalized claims about the alleged inadequacies of the 2014 LCA and 2019 LCA Update, and objects to DOE's approach of comparing emissions from exported U.S. LNG to emissions of coal or other sources of natural gas.³¹ Sierra Club further argues that "the analyses do not provide any discussion of whether increasing LNG exports will help or hinder achievement of the long-term drastic emission reductions" and "ignore important parts of the question of how DOE's decision to authorize additional U.S. LNG exports will affect greenhouse gas ["GHG"] emissions."³²

Sierra Club's continued attacks on DOE's Environmental Studies should be afforded no weight here. DOE/FECM has relied on the 2014 LCA "in its review of all subsequent applications to export LNG to non-FTA countries."³³ Further, the 2019 LCA Update reaffirmed the findings in the 2014 LCA, and "concluded that the use of U.S. LNG exports for power production in European and Asian markets will not increase global GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production" and on this basis, DOE/FECM has continued to find "that the 2019 [LCA] Update supports the proposition that exports of LNG from the lower-48 states will not be inconsistent with the public interest."³⁴ Sierra Club also raises objections with regard to the "leak rates" in the 2019 LCA Update."³⁵ As

³⁰ Environmental Studies, as used here, refers to U.S. Dep't of Energy, Addendum to Environmental Review Documents Concerning Exports of Natural Gas from the United States, 79 Fed. Reg. 48,132 (Aug. 15, 2014) ("Addendum"), U.S. Dep't of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States, 79 Fed. Reg. 32,260 (Jun. 4, 2014) ("2014 LCA"), and Nat'l Energy Tech. Lab., *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas from the United States: 2019 Update* (DOE/NETL-2019/2041) (Sep. 12, 2019) ("2019 LCA Update").

³¹ *Sierra Club Protest*, at 23.

³² *Sierra Club Protest*, at 24, 25.

³³ *Order No. 4961*, at 20.

³⁴ *Order No. 4961*, at 21.

³⁵ *Sierra Club Protest*, at 27.

DOE/FECM has explained, “[t]he 2019 [LCA] Update was based on the most current available science, methodology, and data from the U.S. natural gas system to assess GHG emissions associated with exports of U.S. LNG produced in the lower-48 states.”³⁶

Despite Sierra Club’s objections, the D.C. Circuit has upheld DOE/FECM’s use of the 2014 LCA, finding that “there was ‘nothing arbitrary about [DOE’s] decision’ under NEPA to compare emissions from exported U.S. LNG to emissions of coal or other sources of natural gas”³⁷ and as DOE/FECM has noted, the 2019 LCA Update demonstrated that the conclusions of the 2014 LCA remained the same.³⁸ Additionally, as DOE/FECM recently stated, “the net global GHG emission impacts of increased exports will be affected by the market dynamics in importing countries over the coming decades, as well as the potential interventions of numerous foreign governments in those markets.”³⁹ The analysis Sierra Club seeks would require consideration of many uncertainties and would be “too speculative to inform the public interest determination.”⁴⁰ NEPA does not require the kind of “flyspecking” that Sierra Club demands here.⁴¹ Simply put, Sierra Club offers no persuasive reason why DOE/FECM’s incorporation of its Environmental Studies cannot satisfy the “hard look” at environmental impacts required by NEPA.

³⁶ *Order No. 4961*, at 68.

³⁷ *Order No. 4961*, at 69-70 (quoting *Freeport*, 867 F.3d 189, 203 (D.C. Cir. 2017)).

³⁸ *Order No. 4961*, at 21.

³⁹ *Order No. 4961*, at 69.

⁴⁰ *See Freeport*, 867 F.3d at 203 (quoting *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B, Final Opinion and Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel From the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, FE Docket No. 11-161-LNG, at 93 (Nov. 14, 2014)).

⁴¹ *See, e.g., Freeport*, 867 F.3d at 203 (concluding that “Sierra Club’s complaint falls under the category of ‘flyspecking.’”) (quoting *Myersville Citizens for a Rural Cmty., Inc. v. FERC*, 783 F.3d 1301, 1324 (D.C. Cir. 2015)); *see also Sierra Club v. DOE*, 867 F.3d at 200 (“The purpose of NEPA is not to generate excellent paperwork, but rather to foster excellent action through informed decisionmaking.”) (cleaned up).

2. Sierra Club's Categorical Exclusion Arguments are Misplaced

A significant portion of Sierra Club's discussion of environmental impacts is focused not on the Applicants' proposed export authorization, but on a matter squarely outside of DOE/FECM's review in this proceeding. The Sierra Club Protest spends significant time collaterally attacking DOE's promulgation of categorical exclusion B5.7,⁴² which it argues is "arbitrary and unlawful."⁴³ The current proceeding before DOE/FECM is to determine whether the Applicants' proposed LNG exports are consistent with the public interest under Section 3 of the NGA, and are in compliance with applicable laws (and DOE's regulations and policies), as they currently exist.

Moreover, DOE already addressed similar arguments raised by Sierra Club during the rulemaking proceeding for the categorical exclusion and concluded that DOE both satisfied the requirements for a categorical exclusion and "met its obligations under NEPA."⁴⁴ Nevertheless, to support its decision, DOE conducted an analysis and detailed review of technical documents regarding potential effects associated with marine transport of LNG, compiled in the Marine Transport Technical Support Document, which "support[s] DOE's conclusion that potential environmental effects associated with marine transport, the only reasonably foreseeable environmental impacts associated with DOE natural gas export authorizations, are minimal."⁴⁵ As it has done in similar proceedings, DOE is likely to supplement the record in this proceeding with the Marine Transport Technical Support Document (which the Applicants also incorporated by

⁴² See National Environmental Policy Act Implementing Procedures, 85 Fed. Reg. 78,197 (Dec. 4, 2020).

⁴³ *Sierra Club Protest*, at 16.

⁴⁴ 85 Fed. Reg. at 78,199.

⁴⁵ *Id.*

reference in the DOE Application) to include its consideration of how emissions associated with the ocean transport of U.S. LNG in tankers contribute to total life cycle GHG emissions.⁴⁶

3. Sierra Club's Conclusory Comments on Project Impacts Should be Disregarded

Finally, Sierra Club argues that the environmental impacts of the siting, construction and operation of the Trains 8 & 9 Project, a matter squarely within FERC's jurisdiction to evaluate, render it "not consistent with the public interest."⁴⁷ Before FERC has published any environmental documents with respect to the Trains 8 & 9 Project, or even determined whether an Environmental Assessment or Environmental Impact Statement will be prepared, Sierra Club contends there will be "significant environmental impacts" and makes the conclusory statement that "[t]his will be confirmed by NEPA review."⁴⁸ Sierra Club further alleges in a conclusory manner that "even more adverse impacts will be revealed because Cheniere's FERC and DOE applications are so scant."⁴⁹

Both the FERC Application and the DOE Application satisfied all applicable statutory and regulatory requirements. Moreover, CCL and CCL Midscale 8-9, LLC deployed significant time and resources in FERC's pre-filing process, and developed environmental resource reports incorporating comments of FERC staff, other agencies, stakeholders and the public. Contrary to Sierra Club's misstatement, CCL and CCL Midscale 8-9, LLC submitted over 12,000 pages of environmental review documents covering: water use and quality; fish, wildlife and vegetation; cultural resources; socioeconomics; geological resources; soils; land use, recreation and aesthetics;

⁴⁶ See *Order No. 4961*, at 66 ("[I]n light of [the applicant's] proposed transport of LNG via ocean-going carrier to non-FTA countries, DOE is supplementing the record with the Marine Transport Technical Support Document prepared by DOE in 2020.").

⁴⁷ *Sierra Club Protest*, at 28.

⁴⁸ *Sierra Club Protest*, at 27.

⁴⁹ *Sierra Club Protest*, at 27.

air and noise quality; project alternatives; reliability and safety; and engineering and design. CCL and CCL Midscale 8-9, LLC designed the Trains 8 & 9 Project to minimize environmental impacts and will comply with all FERC environmental conditions to ensure that the siting, construction, operation, and maintenance of the Project will not result in significant environmental impacts.

Moreover, the Applicants anticipate DOE will be a cooperating agency for the FERC environmental review and can incorporate by reference, and supplement as necessary, the NEPA document prepared for the Trains 8 & 9 Project. As supplemented by DOE's own Environmental Studies and analyses, DOE/FECM will have ample detail upon which it can base its decision and satisfy its obligations under both the NGA and NEPA. Sierra Club's demand that DOE/FECM deviate from its past practice and even duplicate aspects of the environmental review to be performed by FERC is not required by NEPA and would be inconsistent with DOE/FECM precedent. Finally, to the extent Sierra Club seeks to incorporate its comments and protest filed in the FERC proceeding,⁵⁰ Applicants hereby incorporate the reply comments filed by CCL and CCL Midscale 8-9, LLC in the FERC proceeding.⁵¹

C. The Project Will Result in Significant Public Benefits

The Protests incorrectly assume, without support, that the Project will not result in benefits to the public. As demonstrated in both the FERC and DOE Applications, that is not the case. First, Sierra Club incorrectly asserts that the Project will not play a role in alleviating European supply constraints due to the Project timeline. Sierra Club misconstrues the Project schedule. As noted in the DOE Application, Applicants have requested an extended construction deadline from FERC

⁵⁰ See *Sierra Club Protest*, at 28.

⁵¹ See *Corpus Christi Liquefaction, LLC & CCL Midscale 8-9, LLC*, Initial Reply Comments of Corpus Christi Liquefaction, LLC and CCL Midscale 8-9, LLC to Opposition Comments, Docket No. CP23-129-000 (May 24, 2023) [hereinafter *FERC Reply Comments*].

(to complete construction and place the facilities in service by 2031) to accommodate the potential for phasing, schedule changes or unforeseen disruptions. If constructed under optimal conditions, the construction duration is anticipated to be only four years for both trains, and in either case, due to phasing, at least a portion of the Project should be operational well before such deadline.

Moreover, while the Applicants' customers will ultimately determine the destination of the gas exported from the Project, it is reasonable to assume that the transition away from Russian energy sources will continue over the next decade and beyond, and that cleaner natural gas will continue to be relied on over other fossil fuels by nations seeking to support the transition away from coal and fuel oil. Further, while the agreement between the Biden Administration and the European Commission focuses on ensuring there is adequate natural gas supply to meet European demand until *at least* 2030, it does not set 2030 as an end date. There is no basis to believe that exports from the Project will not be sent to European nations as replacement for fuels previously provided from Russia.⁵² As the Applicants noted in the DOE Application, Secretary Granholm recently emphasized the importance of U.S. LNG in assisting European countries to meet demand while using the cleanest available source of fuel.⁵³

Second, Public Citizen incorrectly asserts that LNG exports are exacerbating global energy insecurity, when DOE/FECM and the current administration have made clear that such exports have the opposite effect. U.S. LNG exporters, from the CCL Terminal and others, have stepped

⁵² Public Citizen argues, contrary to the Sierra Club, that the exported gas *will* go to Europe and will increase coal use in Asian countries not able to receive LNG. However, this concern runs counter to any objection to additional exports, as sufficient cargos of LNG in the global market would allow both Asian and European nations to receive a cleaner fuel source in the form of U.S. natural gas.

⁵³ Jennifer Granholm, Secretary, U.S. Dep't of Energy, *U.S. Secretary of Energy Jennifer M. Granholm Speaks at 2023 CERAWEEK Luncheon & Keynote Address*, C-SPAN (Mar. 8, 2023), available at <https://www.cspan.org/video/?526539-1/energy-secretary-granholm-speaks-ceraweeek-conference> (explaining that European countries "really do want to use the cleanest form of energy possible that they can get and they have been very grateful to the United States. They feel like our LNG is cleaner and they feel like we are a trusted partner and they can count on us.").

up to remedy the dangerous energy insecurity caused by the Russian invasion of Ukraine. In fact, as DOE/FECM recently held in approving additional export volumes from another project, even outside of the current environment created by the situation in Ukraine, “to the extent U.S. exports diversify global LNG supplies and increase the volumes of LNG available globally, these exports will improve energy security for many U.S. allies and trading partners.”⁵⁴ DOE/FECM also recently published an article noting that “[a]s the top global natural gas producer and exporter, America’s exports of [LNG] play a vital role in supporting global energy security. Following Russia’s brutal invasion of Ukraine, the United States has become the primary supplier of LNG to Europe, demonstrating the flexibility and reliability of American LNG in global markets. Across the U.S. government, and here at [DOE], we are committed to doing everything we can to support the energy security and sustainability of our international allies and partners, while working to reduce emissions across LNG supply chains.”⁵⁵

Similarly, there is broad consensus among market observers regarding the importance of U.S. LNG in providing market stability and energy security. Global management consulting firm McKinsey & Company recently noted that:

[a]ffordable energy, European energy security, and staying within the global carbon budget are a few of the global energy industry’s toughest challenges. North America has ample natural gas reserves to help tackle these challenges. LNG exports could strengthen European security of gas supply and serve as a carbon-reduction lever through coal-to-gas switching.⁵⁶

⁵⁴ Order No. 4961, at 65.

⁵⁵ U.S. Dep’t of Energy, Office of Fossil Energy and Carbon Mgmt., *Office of Fossil Energy and Carbon Management Issues Full Suite of Action on LNG Exports and Methane Emissions Mitigation* (Apr. 21, 2023), available at <https://www.energy.gov/fecm/articles/office-fossil-energy-and-carbon-management-issues-full-suite-action-lng-exports-and>.

⁵⁶ Michael Dalena, et al., *How North American natural gas could alleviate the global energy crisis*, MCKINSEY & COMPANY (Nov. 16, 2022), available at <https://www.mckinsey.com/industries/oil-and-gas/our-insights/how-north-american-natural-gas-could-alleviate-the-global-energy-crisis>.

Additionally, researchers at the International Monetary Fund have explained that:

expanded LNG export capacity for the United States and other producers may prove crucial to creating truly global gas markets that are balanced across regions. As advanced economies increase reliance on weather-dependent renewable energy from wind and solar, they will likely see critical periods of increased demand for supplemental natural gas to meet power generation needs. Integrating global gas markets and building needed infrastructure allows prices to stimulate demand and supply reactions in larger, more integrated markets. This helps to buffer global energy markets against supply shocks.⁵⁷

Finally, and most importantly, contrary to the allegations in the Protests, the proposed Project will have significant domestic benefits, including stimulating the local, regional, and national economies through direct job creation, purchases of goods and services, wages, increased economic activity and tax revenues. Presently, CCL—through operation of the CCL Terminal—proudly supports the local and regional economy, with more than 300 employees, over 70% of whom live in the tri-county area of San Patricio, Nueces and Aransas.⁵⁸ As noted in the DOE and FERC Applications, the proposed Project will build on this community investment, with an anticipated average construction workforce of approximately 1,500 workers, with an estimated peak of approximately 2,100 workers, which is estimated to result in millions of dollars in total construction payroll.⁵⁹

The DOE and FERC Applications also note that once operational, the Project is expected to support 45 new workers employed directly by the facility, and through direct and indirect economic effects—lead to millions of dollars in gross product in annual gains in U.S. business

⁵⁷ Rachel Brasier, Andrea Pescatori & Martin Stuermer, *How Natural Gas Market Integration Can Help Increase Energy Security*, IMF BLOG (May 23, 2023), available at <https://www.imf.org/en/Blogs/Articles/2023/05/23/how-natural-gas-market-integration-can-help-increase-energy-security>.

⁵⁸ *FERC Reply Comments*, at 9-10.

⁵⁹ *FERC Application*, at 20.

activity and over 800 permanent jobs, as well as millions of dollars in additional federal tax receipts.⁶⁰ Sierra Club and Public Citizen unsuccessfully attempt to undermine such benefits by noting that the Applicants will receive certain tax incentives. However, the Protests misunderstand the scope and duration of the tax incentives received by the Project. Tax incentives do not eliminate all property taxes paid.⁶¹

With respect to the Trains 8 & 9 Project, CCL has entered into a Chapter 313 agreement which provides a temporary, partial reduction in the assessed value used to calculate property taxes owed for school district maintenance and operations tax purposes exclusively. The Protests overstate the tax benefit and further, do not account for the fact that entities are obligated to make certain payments during the period when they are receiving such temporary, partial tax limitations. Texas statute requires that 313 Agreement applicants be able to sufficiently demonstrate that the investment will likely generate tax revenue sufficient to offset any revenue lost on account of the agreement on or before the 25th anniversary of the start of the tax incentive period. The Texas Comptroller has certified that the Project will satisfy this statutory requirement. Additionally, the local school district has regularly acknowledged the presence of local industry in the district as the reason for reduction in tax rates and its ability to issue new bonds with no tax increases.⁶²

⁶⁰ *Id.* at 20-21.

⁶¹ Additionally, in its protest, Public Citizen requests that the Applicants detail the financial value of all tax breaks received. *See Public Citizen Protest*, at 5. However, tax breaks do not negate the macroeconomic benefits of the Project, including the public benefit inherent in the taxes that are paid, and does not render the Project inconsistent with the public interest. Accordingly, Public Citizen's request is outside the scope of this proceeding.

⁶² *See, e.g.,* Gregory-Portland Indep. Sch. Dist., *Gregory-Portland ISD Trustees call for \$176 Million School Bond with No Increase to the Total Tax Rate* (Feb. 17, 2023), available at https://resources.finalsite.net/images/v1676678950/gpisdorg/jxdbgkcvmtvbydx714/PR_02172023-Gregory-PortlandISDTrusteescallfor176MillionBondwithnoIncreasetotheTotalTaxRate_1.pdf, and Sophia Englehart, *Gregory-Portland ISD passes \$176M school bond proposition*, KRIS 6 NEWS CORPUS CHRISTI (May 7, 2023), available at <https://www.kristv.com/news/local-news/gregory-portland-isd-has-passed-a-176-million-school-bond-proposition>; *see also* Gregory-Portland Indep. Sch. Dist., *Gregory-Portland ISD Trustees call for \$107.7 Million School Bond with No Increase to Total Tax Rate* (Sep. 3, 2020), available at https://www.gpisd.org/uploaded/District/News/Press_Releases/PR_09032020_-_G-

With regard to Foreign Trade Zones (“FTZ”), Cheniere is the operator of FTZ No. 122-X-01, which includes the area proposed for the construction of the Trains 8 & 9 Project. Federal law provides an exemption for certain property taxes that would otherwise be imposed on inventory in an FTZ; however, the FTZ Board requires concurrence letters from any effected taxing jurisdictions in states like Texas where inventory is subject to property taxes. In consideration of the concurrence letters, Cheniere executed an agreement with each taxing jurisdiction with authority to tax the area included in its FTZ No. 122-X-01, pursuant to which the Company has agreed to forego the property tax exemption otherwise provided through an FTZ.

None of these incentives serve to undermine the significant influx of economic investment into the community from Project construction payroll, materials purchased and the associated economic benefits that multiply from such investment.

D. DOE/FECM Exercises Ample Oversight of Export Authorizations

Sierra Club incorrectly asserts that DOE to date, has refused to exercise supervisory authority over already-approved exports and that export applications are “one-way ratchet on export volumes.”⁶³ This is simply not the case. Sierra Club’s assertion is clearly contradicted by DOE’s clear authority set forth in conditions applicable to every export authorization. This is further evidenced by the recent policy statement on export commencement deadlines,⁶⁴ and

[PISD Trustees Call for School Bond with No Increase to Total Tax Rate.pdf](#); see also Gregory-Portland Indep. Sch. Dist., *G-PISD Board of Trustees Approve Tax Rate Decrease for 2020* (Sep. 3, 2020), available at https://www.g-pisd.org/uploaded/_District/News/Press_Releases/PR_09032020_-_G-PISD_Trustees_Approve_Decrease_in_Total_Tax_Rate_for_2020.pdf The local school district has also published a flyer laying out the ways that the Chapter 313 agreements provide financial opportunities for the district. Gregory-Portland Indep. Sch. Dist., *Chapter 313 Agreements* (last accessed Jul. 12, 2023), available at <https://www.g-pisd.org/news/g-pisd-ch-313-agreements-clone>.

⁶³ *Sierra Club Protest*, at 13.

⁶⁴ U.S. Dep’t of Energy, Policy Statement on Export Commencement Deadlines in Authorizations To Export Natural Gas to Non-Free Trade Agreement Countries, 88 Fed. Reg. 25,272 (Apr. 26, 2023).

DOE/FECM's commensurate refusal to grant two requested extensions of time to commence exports.⁶⁵

III. CONCLUSION

WHEREFORE, for the forgoing reasons, the Applicants request that DOE/FECM accept this Answer and reject the arguments raised by the Protests for the reasons discussed herein.

Respectfully submitted,

/s/Lisa M. Tonery
Lisa M. Tonery
Mariah T. Johnston
Jacob I. Cunningham
Attorneys for
Corpus Christi Liquefaction, LLC,
CCL Midscale 8-9, LLC and
*Cheniere Marketing, LLC*⁶⁶

Dated: July 24, 2023

⁶⁵ See *Lake Charles LNG Export Company, LLC*, DOE/FECM Order Nos. 3868-B & 4010-B, Order Denying Application For Second Extension of Deadline to Commence Exports of Liquefied Natural Gas to Non-Free Trade Agreement Countries, Docket Nos. 13-04-LNG & 16-109-LNG (Apr. 21, 2023); *Lake Charles Exports, LLC*, Order Nos. 3324-C & 4011-B, Order Denying Application For Second Extension of Deadline to Commence Exports of Liquefied Natural Gas to Non-Free Trade Agreement Countries, Docket Nos. 11-59-LNG & 16-110-LNG (Apr. 21, 2023).

⁶⁶ Each outside counsel for the Applicants has a Certified Statement of Authorized Representative on file in the above captioned docket.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at New York, N.Y., this 24th day of July, 2023.

/s/ Dionne McCallum-George
Dionne McCallum-George
Executive Assistant on behalf of
Corpus Christi Liquefaction, LLC,
CCL Midscale 8-9, LLC and
Cheniere Marketing, LLC

VERIFICATION

State of Texas

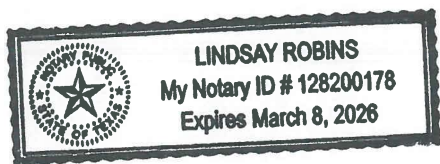
County of Harris

BEFORE ME, the undersigned authority, on this day personally appeared Sean Markowitz, who, having been by me first duly sworn, on oath says that he is Executive Vice President, Chief Legal Officer and Corporate Secretary, for Cheniere Energy, Inc. and is duly authorized to make this Verification; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



Sean Markowitz
Executive Vice President, Chief Legal Officer and Corporate Secretary

SWORN TO AND SUBSCRIBED before me on the 24th day of July, 2023.





Name: Lindsay Robins

Title: Notary Public

My Commission expires: march 8, 2026